

RESOLUTION 03-2006

AN ORDER ABANDONING A COUNTY ROAD

A petition was filed with the Board of County Commissioners of Jefferson County, Montana (hereinafter, the "Board"), by Robert M. Sloan; Dale Fleck; Robert & Eloise Tyler; Wayne & Yvonne Babcock; the June E. Eyer Trust; Lorna Dodge & M.J. Collett; Marilyn J. Monroe; Wayne & Elaine Williams; Gordon & Emily Nielsen; Beverly J., Bradley Thomas, Scot Steven, Douglas Alan, & Rebecca Ann Schmidt; Lloyd G. & Carol J. Fader; Jerry W. & Patricia A. Haas; Harold & Carole Herron Family Trust; Glen T. & Marianna McCracken; Dawn Baker & Donald H. Smith; JoAnn Hattersley; William H. Stinchfield & Myrna H. Schultz; Douglas E. Nulle Trust; Joanne M. & Edward P. Canty; Peter A. & Kathleen F. Ruscitto; Karen Strickler; Donah M. Bower; Lawrence R. Worden; James Terry McLean; Tetzloff Family Living Trust; and Frontier Builders on the 13th day of December. This petition requested the abandonment of a certain Jefferson County road in the Montana City area. The description of the subject County road is set forth as follows:

That portion of Tract 1 lying to the west of Tract 2 as both tracts are depicted in Certificate of Survey No. 174273, Folio 468D, located in the NE ¼ of Section 23, Township 9 North, Range 3 West, P.M.M, according to the records and plats on file in the Office of the Clerk and Recorder of Jefferson County, Montana.

The section of the road to be abandoned lies to the west of Prickly Pear Creek and between the right-of-way for Highway 282 and Stoney Brook Drive (the private access road for the condominium development).

Pursuant to Title 7, Chapter 14, Part 26, MCA, the Board made a preliminary review of the subject Petition. The Board found that the petition was submitted by a majority of the landowners affected by the street petitioned to be closed within Jefferson County and found that said petition described the particular street or portions thereof to be abandoned, the general route thereof, and the lands and owners affected by the proposed abandonment.

The Board further determined that the consent of the owners of the affected lands was endorsed upon the Petition by their execution of the same and that the Petition set forth the necessity for an advantage of the petitioned action.

Therefore, the Board ordered that the feasibility, desirability, and cost of granting the prayer of the Petition, and the merits or demerits of the proposed abandonment be investigated. In this regard, the Board appointed Commissioner Lythgoe and Ben Sautter, Road Supervisor, to conduct the investigation. On January 10, 2006, Commissioner Lythgoe and Ben Sautter reported that they investigated the merits of the petition and recommended that the petition be granted.

The Board considered the Petition and the findings of Commissioner Lythgoe's and Ben Sautter's investigation. Commissioner Lythgoe moved to approve the closure of said road, hereinafter described:

That portion of Tract 1 lying to the west of Tract 2 as both tracts are depicted in Certificate of Survey No. 174273, Folio 468D, located in the NE ¼ of Section 23, Township 9 North, Range 3 West, P.M.M, according to the records and plats on file in the Office of the Clerk and Recorder of Jefferson County, Montana.

The section of the road to be abandoned lies to the west of Prickly Pear Creek and between the right-of-way for Highway 282 and Stoney Brook Drive (the private access road for the condominium development).

The Board found that the granting of the relief sought in the Petition was in the best interest of the County, was both feasible and desirable for the use and benefit of the public, would not cause any increase in costs to the public, and could be done without detriment to the public interest.

Upon such basis, the Board determined that the Petition should be granted and that an appropriate Order should be entered.

Therefore **IT IS HEREBY ORDERED** as follows:

1. That the Petition of Robert M. Sloan; Dale Fleck; Robert & Eloise Tyler; Wayne & Yvonne Babcock; the June E. Eyer Trust; Lorna Dodge & M.J. Collett; Marilyn J. Monroe; Wayne & Elaine Williams; Gordon & Emily Nielsen; Beverly J., Bradley Thomas, Scot Steven, Douglas Alan, & Rebecca Ann Schmidt; Lloyd G. & Carol J. Fader; Jerry W. & Patricia A. Haas; Harold & Carole Herron Family Trust; Glen T. & Marianna McCracken; Dawn Baker & Donald H. Smith; JoAnn Hattersley; William H. Stinchfield & Myrna H. Schultz; Douglas E. Nulle Trust; Joanne M. & Edward P. Canty; Peter A. & Kathleen F. Ruscitto; Karen Strickler; Donah M. Bower; Lawrence R. Worden; James Terry McLean; Tetzloff Family Living Trust;

and Frontier Builders is hereby granted subject to the following conditions:

a) that the Petitioners recognize that no owner shall ever claim or attempt to claim that any portion of said road constitutes a “lot” or “parcel”, distinct from the owners adjoining lot or property, upon which the separate residence or structure requiring water and sewer facilities can be constructed, and;

b) that any utility easements now existing on the right-of-way will be continued unaltered and that access by utility company employees for the maintenance of the equipment shall be allowed, and;

c) that Jefferson County shall retain full utility right, if any.

2. That the portion of the said Jefferson County road which is abandoned by this Order is more particularly described as:

That portion of Tract 1 lying to the west of Tract 2 as both tracts are depicted in Certificate of Survey No. 174273, Folio 468D, located in the NE ¼ of Section 23, Township 9 North, Range 3 West, P.M.M, according to the records and plats on file in the Office of the Clerk and Recorder of Jefferson County, Montana.

The section of the road to be abandoned lies to the west of Prickly Pear Creek and between the right-of-way for Highway 282 and Stoney Brook Drive (the private access road for the condominium development).

DATED this 10th day of January, 2006.

ATTEST:

BONNIE RAMEY
CLERK AND RECORDER

TOMAS E. LYTHGOE, CHAIR

CHUCK NOTBOHM, COMMISSIONER

KEN WEBER, COMMISSIONER